

REMARKS

Claims 1-19 are pending in the application.

Claims 1-19 have been rejected.

Rejection of Claims under 35 U.S.C. §102

Claims 1-6, 9, 18 and 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,697,381 issued to Talbot et al., (“Talbot”). Applicant respectfully traverses this rejection.

In order to anticipate a claim under 35 U.S.C. § 102, a reference must disclose each and every limitation of that claim. Applicant respectfully submits that Talbot fails to provide such disclosure.

As an initial matter, the Applicant further submits that the particular parts of Talbot that the Examiner has relied upon have not been designated as nearly as practicable, and the pertinence of those cited sections of Talbot has not been clearly explained, both as required by 35 C.F.R. §1.104(c)(2). Nevertheless, the Applicant has made every attempt to respond to the rejections recited in the Office Action.

Claims 1: Independent Claim 1 of the present application is directed toward a frame structure comprising “super-channel information.” As disclosed by the present invention, a super-channel is a link between two network elements, such as the packet switches disclosed by the application, that includes a number of sub-channels that carry data transmission between the coupled network elements.

Applicant respectfully submits that the cited disclosure of Talbot does not illustrate or describe super-channel information in a frame, because Talbot fails to discern the existence of super-channels, and certainly fails to provide any disclosure in this regard. Talbot relates to “a system and packet data frame for transferring a data signal in a contiguous sequence over a channel.” Talbot 1:11-13. The Talbot disclosure provides for a variable length data packet frame that allows for a data signal of any length to be transferred without having to break the data signal into smaller fixed sized data packets. *See* Talbot 5:29-40. Talbot states that an advantage of such a system is that it “avoids having to reassemble the data signal from a plurality of data packets.” In fact, a result of employing a super-channel made up of sub-channels is exactly this: a high bandwidth data stream is broken into units of data that are then spread across the sub-channels of the super-channel. In so doing, the aggregation of sub-channels into a super-channel allows the high-bandwidth data stream to be carried by this aggregation of sub-channels (the super-channel), when one of the sub-channels, taken alone, would be unable to convey the high-bandwidth data stream. Thus, information specific to a super-channel is antithetical to Talbot, as such information describes an aspect of a scheme that Talbot clearly and stridently eschews.

Talbot's Figures 4, 4A, 4B, 4C and 4D illustrate Talbot's data frame. Figure 4B illustrates that a header of Talbot's data frame can include packet control words (74) and a synchronization code (72). Talbot further discloses that a packet control word (74) can include, per Figure 4C, a word count (80) and a stream identifier (82). Since Talbot's data frames are disclosed to be variable length, “the word count portion 80 corresponds to the number of data words 77 that comprise a data packet 76”, that is a part of Talbot's

data frame. *See* Talbot 6:9-13. Talbot further states that the word count portion (80) can include any suitable information identifying the length of the data packet portion of the data frame. *See* Talbot 6:14-17. The stream identifier (82) is disclosed to be comprised of a user code (84), stream type (86) and a unit identifier (88). Talbot discloses these components of the stream identifier to be as follows:

Preferably, the user portion 84 corresponds to information related to the format or standard of the data being transmitted, such as for example, a TCDL standard or a proprietary user format. The stream type portion 86 preferably includes information corresponding to the type of data being transmitted such as, for example, acoustic, MPEG, SAR, etc. The unit ID portion 88 preferably includes information corresponding to the sensor or device associated with the data. In an alternate embodiment, the stream ID portion 80 could be formatted in any suitable manner that provides the routing information for the data packet 76. The stream ID portion 80 could also include reserve blocks or portions for other information.

Talbot 6:29-38. Talbot discloses the synchronization code (72) as “a start of packet synchronization code and is used to identify a transmitted data packet frame.” Talbot 6:40-42.

Applicant respectfully submits that none of the above disclosure of Talbot’s data frame corresponds to super-channel information, as noted previously. Talbot’s disclosure, as discussed above, relates to information about the data frame itself or the data packets encapsulated within a data frame (e.g., length of the data packet within the data frame, format or standard of the data, type of data being carried, and identifier of appropriate receiving data decoder). Applicant further submits that Talbot 2:39-59 and Talbot 3:37-45, both cited in the Office Action against Claim 1, provide no disclosure of a data frame.

For at least these reasons, Applicant respectfully submits that Talbot does not disclose each and every limitation of Claim 1.

Claims 2 and 9: Dependent Claims 2 and 9 include additional limitations directed toward information that super-channel information comprises (e.g., super-channel identifier, and alternate super-channel information). For the reasons stated above with regard to Claim 1, Applicant submits that Talbot provides no disclosure of super-channel information in a frame. Further, none of Talbot's frame disclosure corresponds to a super-channel identifier or alternate super-channel information, such as an alternate super-channel identifier. In addition, Applicant submits that the cited sections of Talbot provide no disclosure of an alternate super-channel, and therefore there would be no purpose served by having alternate super-channel information in Talbot's data frame. For at least these reasons, Applicants respectfully submit that Talbot does not disclose Dependent Claims 2 and 9, and therefore further does not disclose any claims dependent therefrom (Claims 3-19).

Claim 3: Dependent Claim 3 contains an additional limitation wherein the frame structure of the present invention includes sub-channel information. Applicant respectfully submits that Talbot does not describe a super-channel that is comprised of sub-channels, as is disclosed in the present application. The present application describes a framer in a transmit section of the disclosed device receiving data and distributing that data across several outgoing sub-channels and encapsulating each of those datastreams in corresponding frames. *See* Application, p.12, ll.23-30. The Application further discusses transmit port speed as being a multiple of the outgoing sub-channel speeds or data rates.

Id. No such description of sub-channels is provided in Talbot nor is an alternative description of sub-channels provided.

Talbot uses the phrase “dynamically allocating the size of the channel” (Talbot 5:33), but that phrase is disclosed to refer to “the capability of the present invention to transfer a data signal in a contiguous sequence from the transmit side 4 to the receive side 6 of the channel 8 (by varying the length of the data packet).” Talbot 5:31-37 (referring to Figure 1). Applicant respectfully submits that such variable length data frames do not correspond to a sub-channel of the present invention. Data is not described as being spread out over several of these data frames, instead an attempt is made to maximize information in one frame without a break in order to achieve contiguous transmission. Further, transmit port speed is not the aggregate of these frame. Also, as discussed above with regard to Claim 1, information contained within packet control words (74) relate to the data frame and its encapsulated data packet, not to information related to a sub-channel over which the frame is transmitted.

For at least these reasons, Applicant respectfully submit that Talbot does not disclose the limitations of Claim 3 or those claims dependent therefrom (Claims 4-19).

Claims 4-6, 18, and 19: Dependent Claims 4-6, 18, and 19 all contain additional limitations relating to sub-channel information. As discussed above with regard to Claim 3, Applicant submits that Talbot does not provide disclosure of a frame comprising sub-channel information. Applicant further submits that none of the disclosed part of Talbot’s data frame correspond to the information included in the additional limitations of the present dependent claims (e.g., a sub-channel identifier, a sub-channel bitmap

representing operational states of the sub-channels, and sub-channel state information). For at least these reasons, Applicant respectfully submit that Talbot does not anticipate these dependent claims.

For at least the reasons stated above, Applicant respectfully submit that Claims 1-6, 9, 18, and 19 are allowable over Talbot and Applicant respectfully requests Examiner's reconsideration of the stated rejections and an indication of the allowability of these claims.

Rejection of Claims for Double Patenting under 35 U.S.C. § 101

Claims 1-19 have been provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of Claims 1-19 of co-pending Application 10/927,768 and Claims 1-19 of co-pending Application 10/936,087.

The Office Action states "a statutory type double-patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope". See Office Action, p. 2. Applicant brings to the Examiner's attention that in both cited co-pending Applications the claims cited against the present claims have been canceled in Preliminary Amendments filed contemporaneously with those applications.

Application No. 10/927,768 was filed on August 27, 2004, as a continuation of the present application. Filed contemporaneously with that application was a Preliminary Amendment and Remarks that is attached hereto as Appendix A for the Examiner's

reference. Claims 1-19 of Application 10/927,768 were canceled by that Preliminary Amendment, and Claims 20-86 were added. *See* Appendix A, pp.4-17.


Application No. 10/936,087 was filed on September 8, 2004, as a continuation of the present application. Filed contemporaneously with that application was a Preliminary Amendment and Remarks that is attached hereto as Appendix B for the Examiner's reference. That Preliminary Amendment canceled Claims 1-19 and added Claims 20-69. *See* Appendix B, pp. 5-14.

For these reasons, Applicant respectfully submits that the statutory double-patenting rejection raised by the Examiner has been overcome by cancellation of the cited claims through Preliminary Amendments previously filed in both co-pending continuing applications. For at least these reasons, Applicant respectfully requests the Examiner's withdrawal of the double-patenting rejection and indication of allowability of the affected claims.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on January 6, 2006.

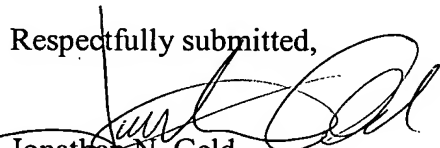


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